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Atrium at Princeton, LLC d/b/a Pavilions at Forrestal and Princeton Healthcare, LLC d/b/a Pavilions at Forrestal and SEIU 1199 New Jersey Health Care Union. Cases 22–CA–27066, 22–CA–27289, 22–CA–27315, and 22–CA–27601

October 22, 2010

## DECISION AND ORDER

## BY CHAIRMAN LIEBMAN AND MEMBERS BECKER AND HAYES

On December 5, 2008, the two sitting members of the Board issued a Decision and Order in this proceeding, which is reported at 353 NLRB 540 (2008). Thereafter, the Respondents filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit, and the General Counsel filed a cross-application for enforcement. On June 17, 2010, the United States Supreme Court issued its decision in *New Process Steel, L.P. v. NLRB*, 130 S.Ct. 2635, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegee group of at least three members must be maintained. Thereafter, the court of appeals remanded this case for further proceedings consistent with the Supreme Court's decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.<sup>2</sup>

The Board has considered the judge's decision and the record in light of the exceptions and brief and has decided to affirm the judge's rulings, findings, and conclusions and to adopt the recommended Order to the extent and for the reasons stated in the decision reported at 353 NLRB 540, which is incorporated herein by reference.<sup>3</sup>

Wilma B. Liebman,	Chairmar
Craig Becker,	Member
Brian E. Hayes,	Member

Dated, Washington, D.C. October 22, 2010

(SEAL) NATIONAL LABOR RELATIONS BOARD

In agreeing with the judge that Respondent Atrium violated Sec. 8(a)(5) and (1) of the Act by failing and refusing to bargain in good faith with the Union for a successor collective-bargaining agreement, Chairman Liebman and Member Hayes find it unnecessary to decide whether the parties had reached a genuine impasse in their negotiations, as any impasse that existed was broken in January 2006 when Respondent Atrium unilaterally implemented a new health insurance plan without providing the Union with notice and an opportunity to bargain and failed and refused to provide the Union with requested information concerning the new plan. 353 NLRB 540, 541. Member Becker would also find that any impasse was broken by the imposition of a duty to bargain on a new employer, the successor, Respondent Atrium, on December 9, 2005.

<sup>&</sup>lt;sup>1</sup> Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

<sup>&</sup>lt;sup>2</sup> Consistent with the Board's general practice in cases remanded from the courts of appeals, and for reasons of administrative economy, the panel includes the remaining member who participated in the original decision. Furthermore, under the Board's standard procedures applicable to all cases assigned to a panel, the Board Members not assigned to the panel had the opportunity to participate in the adjudication of this case at any time up to the issuance of this decision. However, Member Pearce is recused, and has taken no part in the consideration of this case.

<sup>&</sup>lt;sup>3</sup> In doing so we rely on *Laurel Baye Healthcare of Lake Lanier*, *LLC*, 355 NLRB No. 118 (2010), incorporating by reference the rationale of *Laurel Baye Healthcare of Lake Lanier*, *LLC*, 352 NLRB 179 (2008).